

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

TED SPRAGUE,

Plaintiff,

v.

SYNGENTA CROP PROTECTION, INC.,  
SYNGENTA AG and SYNGENTA  
CORPORATION,

Defendants.

:  
:  
:  
:  
:  
:  
:  
:  
:  
:

CASE NO. 3:10-cv-426-JPG-PMF

**MEMORANDUM AND ORDER**

This matter comes before the Court on plaintiff Ted Sprague's motion to lift the stay (Doc. 39) this Court imposed pending the decision of the Court of Appeals for the Federal Circuit in the appeal of *Stauffer v. Brooks Brothers, Inc.*, Appeal Nos. 2009-1428, 2009-1430 and 2009-1453. Sprague also requests a Rule 16 conference to establish a scheduling and discovery order in this case (Doc. 40). On August 31, 2010, the Court issued its opinion, and on October 12, 2010, it issued its mandate. Defendant Syngenta Crop Protection, Inc. ("Syngenta") opposes lifting the stay until the deadline for the defendant in *Sprague* to file a petition for a writ of *certiorari* – November 29, 2010 – has passed or, alternatively until the Court rules on the pending motions to dismiss (Doc. 41). Sprague has replied to Syngenta's response (Doc. 43).

It is time to lift the stay of this matter. The Court's stay was intended to stop action in this case pending a decision by the last court that was certain to issue a ruling in this case. Whether the defendant in *Stauffer* will seek a writ of *certiorari* and whether the Supreme Court would grant such a writ is uncertain – too uncertain to place this case on hold until those questions are answered. Nor is the mere pendency of a motion to dismiss a legitimate reason to place an entire case on hold unless there are extraordinary circumstances, which do not appear to

be present in this case.

For these reasons, the Court **GRANTS** Sprague's motion to lift the stay (Doc. 39), **LIFTS** the stay imposed in this case and **GRANTS** the motion for a Rule 16 conference (Doc. 40). Magistrate Judge Frazier will notify the parties of the date of that proceeding. The Court further **ORDERS** that the plaintiff's responses to the defendants' motions to dismiss (Docs. 30 & 33) are due November 19, 2010, and the defendants' replies, if any, are due December 3, 2010.

**IT IS SO ORDERED.**

**Dated: October 20, 2010**

s/ J. Phil Gilbert  
**Hon. J. Phil Gilbert**